

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:12-HC-2194-D

LANCE ADAM GOLDMAN,)
)
 Petitioner,)
)
 v.)
)
 ALVIN KELLER,)
)
 Respondent.)

ORDER

Lance Adam Goldman, a state inmate, petitions the court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 [D.E. 1]. Goldman seeks leave to proceed in forma pauperis [D.E. 2]. On August 16, 2012, Goldman filed a “motion for speedy trial and proceeding of habeas corpus petition” [D.E. 3]. On September 4, 2012, Goldman filed a motion for voluntary dismissal [D.E. 4].

A petitioner may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). In all other instances, “an action may be dismissed at [a] plaintiff’s request only by court order.” Fed. R. Civ. P. 41(a)(2). Because Goldman’s petition is subject to preliminary review, respondent has not been served. Accordingly, the court will allow the voluntary dismissal.

Goldman’s motion for voluntary dismissal without prejudice [D.E. 4] is ALLOWED, and this petition is DISMISSED WITHOUT PREJUDICE. All other motions are DENIED AS MOOT [D.E. 2–3]. The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This 26 day of September 2012.


JAMES C. DEVER III
Chief United States District Judge